

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VENGAI CHIKONYERA,

Petitioner,

v.

U.S. Attorney, et al.,

Respondents.

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: CIVIL ACTION NO. 3:05-CV-2061

: (JUDGE CONABOY)

**FILED  
SCRANTON**

JUL 19 2006

MARY E. D'ANDREA, CLERK

Per CA  
DEPUTY CLERK

ORDER

BACKGROUND OF THIS ORDER:

Petitioner was an inmate at the York County Prison when he filed this habeas action pursuant to 28 U.S.C. § 2241 on October 11, 2005, challenging his continued detention by the Bureau of Immigration and Customs Enforcement ("BICE"). (Doc. 1.)

Petitioner seeks a bond hearing and custody review, as well as his immediate release from custody. (*Id.*)

On the same date, Petitioner filed a Motion to Lift Stay of Removal, (Doc. 3) - stating that, although his case is still pending with the BIA, he would rather have the stay lifted and be returned to Zimbabwe than remain in custody for an indefinite period. (Doc. 3 at 2.)

The matter was referred to Magistrate Judge Thomas M. Blewitt who issued a Report and Recommendation on June 28, 2006. (Doc. 11.) The Magistrate Judge recommends that Petitioner's habeas petition be deemed moot because he was granted a custody hearing

which took place on October 27, 2005, and the Immigration Judge ordered that Petitioner's request for a change in custody be granted and that Petitioner be released from custody under bond of \$1500. (Id. at 3.) The Magistrate Judge also recommends that Petitioner's Motion to Lift Stay of Removal be granted. (Id. at 8.)

While we agree with the Magistrate Judge's legal analysis, we find that the Petition is moot because Petitioner has now been released from custody - having posted the \$1,500 bond on November 22, 2005.<sup>1</sup>

Because the basis of Petitioner's Motion to Lift Stay is his continued detention and because he has been released from custody, we also find that the Motion to Lift Stay, (Doc. 3), is moot.

AND NOW, THIS 19<sup>th</sup> DAY OF JULY 2006, THE FOLLOWING ORDER IS ENTERED:

1. The Magistrate Judge's Report and Recommendation, (Doc. 11), is adopted in part;
2. Petitioner's habeas action, (Doc. 1), is deemed moot;
3. Petitioner's Motion to Lift Stay, (Doc. 3), is deemed moot;
4. If Petitioner has not objected to this Order on or before July 28, 2006, this case will be closed;
5. The Clerk of Court is directed to mark the docket and

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<sup>1</sup> Officer Day of the Immigration Division at York County Prison provided this information on July 18, 2006.

close this case on July 31, 2006, if Petitioner has not  
filed objections.

  
RICHARD P. CONABOY  
United States District Judge